



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#7
6-18-03

Applicant: Ricardo S. Avila, et al. :
: Art Unit: 2623
Serial No.: 09/418,142 :
: Examiner: Bhatnagar, Anand P.
Filed: October 14, 1999 :
:
For: VOLUME IMAGING SYSTEM :

AMENDMENT AFTER FINAL OFFICE ACTION

Mail Stop: AF
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Applicants respectfully request consideration and entry of the following remarks submitted in response to the Office Action dated March 11, 2003, and made final.

Remarks

The Office Action mailed March 11, 2003 has been carefully reviewed and the forgoing remarks have been made in consequence thereof. Submitted herewith is a Supplemental Declaration and Power of Attorney claiming priority of He et al. (U.S. Pat. 6,141,398) filed August 25, 1998.

Claims 1-42 are pending in this application. Claims 1-8, 12-14, 17-25, 30, 31, 34-40, and 42 stand rejected. Claims 9-11, 15-16, 26-29, 32, 33, and 41 are objected to.

The rejection of Claims 1-4, 6-8, 13, 14, 17-25, 30, 31, 34-40, and 42 under 35 U.S.C. § 102(e) as being anticipated by He et al. (U.S. Pat. 6,141,398) is respectfully traversed.

Applicants respectfully submit that the of rejection of Claims 1-4, 6-8, 13, 14, 17-25, 30, 31, 34-40, and 42 under 35 U.S.C. § 102(e) as being anticipated by He et al. is an improper rejection because the instant application is a CIP of He et al. Anticipation cannot be established by merely stating that two patents have only one inventor in common. More specifically, it is submitted that a prima facie case of anticipation has not been established. Prior interpretation of the legal requirements for making out a case of prima facia anticipation has been provided by the Board of Patent Appeals and Interferences. As explained by the Board of Patent Appeals and Interferences, "the revision to § 120 provides that an application